

# Exhibit 10

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF NEW YORK

3 MOSES STRAUSS, et al.,

4 Plaintiffs,

5 -against-

6 CREDIT LYONNAIS, S.A.,

7 Defendants.

8 BERNICE WOLF, et al.,

9 Plaintiffs,

10 -against-

11 CREDIT LYONNAIS, S.A.,

12 Defendants.

13 -----x

14 One Liberty Plaza  
15 New York, New York

16 September 28, 2010  
17 9:40 a.m.

18 Videotaped Deposition of Expert

19 Witness, EMANUEL GROSS, before Shari Cohen,  
20 a Notary Public of the State of New York.

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14 ALSO PRESENT:

15 DAN MACOM, Videographer

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1 GROSS

2 A. Okay.

3 Q. Let's read the whole paragraph.

4 "From observations that the organization  
5 B'Tselem conducted during the same period, it  
6 appears that the majority of the trials are  
7 not based on witness testimony while  
8 convictions are based on confessions by the  
9 accused. This finding casts great doubt on  
10 the conclusion that proceedings before  
11 military courts indeed lead to a just trial  
12 notwithstanding the provisions we have  
13 already discussed that apply the rules of  
14 procedures and evidence prevailing in Israeli  
15 law to the military courts." You said  
16 earlier to your understanding 80 percent of  
17 the convictions are based on confessions,  
18 correct?

19 A. On plea.

20 Q. This statement by you that the  
21 prevalence of confessions casts great doubt  
22 on the conclusion that the proceedings indeed  
23 lead to a just trial, that remains an  
24 accurate observation by you not only in 2004,  
25 but also 2005 and 2006, correct?

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2 MR. STONE: Objection to form.

3 A. Not quite. I want to explain.

4 What I was referring to the observation to  
5 the report of the B'Tselem is that the  
6 differences between the civil judicial system  
7 and the military system grow some doubt or  
8 the ability of the military court to provide  
9 the same standard of justice.

10 Q. There were no changes that were  
11 made with respect to the prevalence of  
12 confessions in 2005 or 2006, correct?

13 A. I don't know, but once again  
14 you are using the term confession and I would  
15 prefer to use the term of plea bargain or  
16 plea, but I also observed before that it's  
17 not unique to the military system, by the  
18 way, it's the same here in America.

19 Q. By plea you mean pleas which  
20 are based on a confession to the crime to  
21 which the defendant pleads?

22 A. Yes.

23 Q. You then continue with another  
24 quotation from Mr. Cox, correct, beginning  
25 with the words contrary to the civil court's

1 GROSS

2 court must also find sufficient corroborative  
3 evidence to establish guilt, correct?

4 A. Correct.

5 Q. That rule was in place at the  
6 time you wrote what you wrote on page 466 of  
7 your book?

8 A. Yes.

9 Q. Let's go on to the next point  
10 that you make here and that is about the use  
11 of informers. You write quote in this area  
12 of violations -- actually you quote Mr. Cox  
13 saying --

14 MR. STONE: Where are you?

15 Q. I'm on page 466 continuing in  
16 the same paragraph.

17 A. Just a moment, please.

18 Q. The first full paragraph on the  
19 page you write -- you quote Mr. Cox's  
20 statement that "In this area of violations  
21 there is another factor fundamental and no  
22 less complex from those that follow it. The  
23 investigators discover most of the violations  
24 using informers. People confess everything  
25 and from confession to confession they

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2 incriminate other people. This is very  
3 dangerous and uncertain to decide the fate  
4 of a person on the basis of an informer and  
5 indictments are presented on the basis of  
6 these informers. This is a chain reaction;  
7 "informer indictment confession punishment",  
8 do you see that?

9 A. Yes.

10 Q. You relied on this observation  
11 by Mr. Cox again for your same point about  
12 there being great doubt on the conclusion  
13 that proceedings before military courts  
14 indeed lead to a just trial, correct?

15 MR. STONE: Objection to form.

16 Q. That's why you offer this  
17 quotation?

18 A. Yes, but I do want to add  
19 something here just to clarify my points. I  
20 had my criticism about how to improve the  
21 system. It doesn't mean that at the time I  
22 wrote it or afterwards the judges were not  
23 able to make a fact finding process or to  
24 follow that kind of process that will enable  
25 them, you know, to get to a just result, but

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2 the same criticism I had also with the civil  
3 judicial system because I was not happy that  
4 according to the English system as different  
5 from the European system the judge is able to  
6 convict a person just based on his confession  
7 alone.

8 Q. Now the last part of this  
9 paragraph refers to the differential in  
10 punishment and you quote Mr. Cox as saying,  
11 "And if we mention punishment, the level of  
12 punishment too does not give rise to equal  
13 justice. When a Jew kills an Arab he can  
14 receive a year in prison. When an Arab  
15 throws a stone and no damage is caused he  
16 receives a similar penalty. This is not a  
17 just trial." You quote Mr. Cox's statement  
18 to that effect?

19 A. And I agree.

20 Q. And you agree with it. If we  
21 go to the next paragraph you wrote, "This is  
22 the practical result of a military trial  
23 that's different in composition from a  
24 regular civil trial even when it purports to  
25 apply procedures that are similar to the

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2 procedures that apply in the regular civil  
3 courts. The outcome is deep erosion in the  
4 basic right of every defendant to a fair  
5 trial. Such an outcome contradicts the  
6 tenets of a democratic state." You wrote  
7 that in 2004, correct?

8 A. Yes.

9 Q. The only change in that  
10 observation by you with respect to 2005 and  
11 2006 would be as a result of the amendments  
12 we discussed as to the qualifications of  
13 judges and how they are appointed, correct?

14 A. Yes, but I do think that there  
15 is -- I mean the whole idea, the whole reason  
16 for this amendment is what was my criticism.

17 Q. Okay and if you look at the  
18 last paragraph here which begins with the  
19 words what will be the result?

20 A. Yes.

21 Q. You say, "What will be the  
22 result in a case where not only is the  
23 component that is judged terrorists different  
24 from the component that sits in the regular  
25 civil system, but also where the law allows

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2 Professor Gross' testimony that all  
3 the opinions he intends to express in  
4 these cases are stated in his report,  
5 I have no further questions. If that  
6 changes, I will object but if that  
7 objection is overruled, I will have  
8 more questions for Professor Gross.

9 Thank you, Professor Gross.

10 THE WITNESS: Thank you.

11 MR. STONE: We have a handful  
12 of questions.

13 EXAMINATION BY

14 MR. STONE:

15 Q. Professor Gross, in your  
16 opinion should an Israeli Civil Court  
17 recognize a conviction from a military court  
18 in the occupied territories from the year  
19 2002?

20 MR. FRIEDMAN: Objection to  
21 form.

22 A. Yes.

23 Q. How do you reconcile this view  
24 with your testimony earlier today concerning  
25 the fairness of military courts that you gave

1 GROSS

2 when you were being questioned by Mr.

3 Friedman concerning your book?

4 MR. FRIEDMAN: Object to the  
5 form.

6 A. As I tried to explain there are  
7 various degrees of fairness and even though I  
8 had some concerns about the procedures  
9 applied by the military courts, it doesn't  
10 mean that with all the faults and the facts  
11 nonetheless I was satisfied that the whole  
12 machinery, the whole operation as such in my  
13 humble opinion it still should be considered  
14 as comporting with the notion of civilized  
15 system of law and what I understand is the  
16 minimum requirement of due process of law.

17 Q. I would like to talk briefly  
18 about the element of intent under Israeli  
19 penal law. Is it your testimony that to  
20 establish Credit Lyonnais' liability under  
21 the Prevention of Terrorism Act that  
22 plaintiffs must show that Credit Lyonnais  
23 intended to enable acts of terror?

24 MR. FRIEDMAN: Object to the  
25 form.